

**REMARKS**

Applicants propose that:

Claims 26 and 28 be amended. No new matter would be added by this proposed amendment.

Claims 30 and 36 were previously cancelled.

Claims 1-25 and 37-49 were withdrawn as a result of a prior restriction requirement.

Claims 26-29, 31-35 and 49 would then be pending in the application.

**Claims Rejections – 35 USC § 102**

Claims 26-29, 31, 32 and 49 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,771,911 to Morony et al. (“Morony”).

These rejections are respectfully traversed in view of the proposed amendment to claim 26.

Of the claims rejected, claim 26 is independent, with the remaining claims dependent thereon.

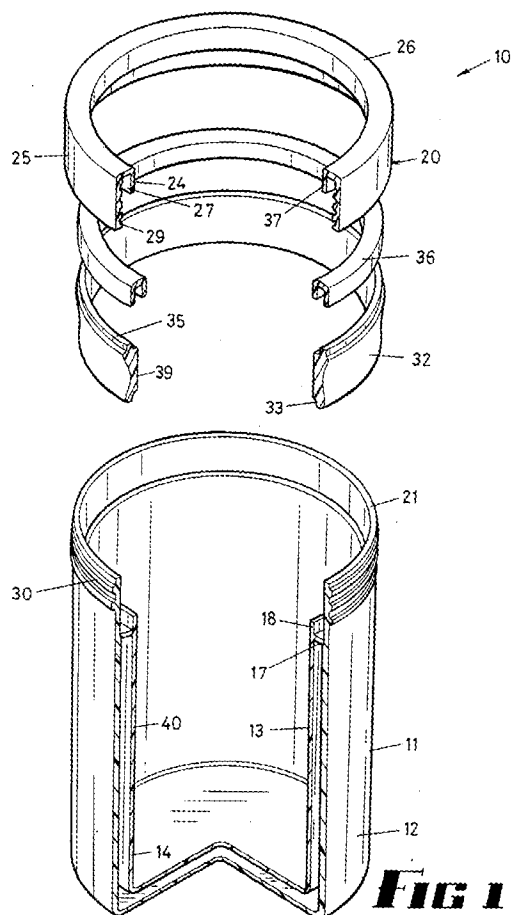
Amended Claim 26 now recites, among other things:

*inserting the inner tube within the open top of the outer tube to a position in which the outwardly flared portion of the inner tube engages a top edge of the recess of the inner surface of the outer tube thereby retaining the inner tube within the outer tube.*

Applicants submit that Morony fails to disclose at least the claimed features of:

- a) a top edge of the recess of the inner surface of the outer tube, and
- b) the outwardly flared portion of the inner tube engaging a top edge of the recess of the inner surface of the outer tube thereby retaining the inner tube within the outer tube.

Morony discloses a container holder 10 for holding cold beverage containers a generally cylindrical cup-like body 11 composed of an outer moulding 12 and an inner moulding (or liner) 13 which slips or nests inside of the outer moulding 12 (See Fig. 1 , Col 2 lines 42 to 52, and Col 3. lines 33 to 46, on next page).



The upper open end of the inner cup-like moulding 13 is formed with a radially outturned annular flange 17 which serves as a ledge, the flange 17 terminating at its radially inner end in an upstanding bead or rib 18 which extends around the rim of the inner moulding 13. The free peripheral edge surface of the outturned flange 17 abuts against a conical shoulder 19 which extends around the inner surface of the outer moulding 12 near its upper end, such an arrangement assisting to firmly locate the inner moulding 13 in position relative to the outer moulding 12.

In use, a container such as a bottle or can is inserted through the opening presented by the locking collar 20 /slip ring 36 /clamping ring 32 assembly into the bore of the cup-like body 11 with at least a portion of the container projecting from the open end of the holder 10. The container is inserted with the clamping ring 32 in its undeformed condition. The locking ring or collar 20 is then rotated in one direction so as to apply an axial compressive force to the slip ring 36 located thereunder and in turn squeeze or compress the clamping ring 32 between the slip ring 36 and the ledge 17, this causing the clamping ring 32 to flex inwardly so that its inner lateral wall resiliently grips and seals against the outer surface of the container.

Thus Moroney discloses a conical shoulder 19 on the inner surface of the outer moulding, and that the inner cup-like moulding 13 is retained within the cup-like body 11 by the locking collar /slip ring /clamping ring assembly.

Therefore, Morony fails to disclose a top edge of a recess on the inner surface of the outer tube and furthermore fails to disclose that on insertion of the inner tube into the outer tube, the inner tube is retained within the outer tube by the engagement of the outwardly flared portion of the inner tube with the top edge of the recess of the inner surface of the outer tube.

Thus Morony does not anticipate claim 26.

For these reasons applicant submits that claim 26, and dependent claims 27-29, 31, 32 and 49, are not anticipated by the Morony reference.

In addition, the invention defined by amended claim 26, is nether taught nor rendered obvious by Morony. Morony has no suggestion of inserting an inner tube within the open top of an outer tube to a position in which the outwardly flared portion of the inner tube engages a top edge of the recess of the inner surface of the outer tube thereby retaining the inner tube within the outer tube.

In contrast, Morony discloses a container holder which requires inner moulding to be retained in the outer moulding by the arrangement of a flexible clamping sleeve and the locking collar in order to function, such that upon rotation of the locking collar in one direction, the collar applies a compressive force against the upper circular rim of the clamping sleeve which causes portion of the sleeve to deform radially inwards and to tightly grip against a container, when positioned in the holder so as to frictionally retain same therewithin. Therefore the container holder of Morony would have to be completely redesigned to be brought closer to the invention defined by claim 26. In fact, a redesign of the upper portion of the inner surface of the outer moulding to include a recess in which an outwardly flared portion of the inner moulding engages a top edge of the recess to retain the inner moulding within the outer moulding for example would appear render the apparatus of Morony inoperable.

Accordingly, it is submitted that the method as defined by claims 26-29, 31, 32 and 49 are not taught or suggested by Morony.

### **Allowable Subject Matter**

Applicants acknowledge the Examiner's allowance of Claims 33-35 if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

In view of the proposed amendment and remarks herein, applicants submit the claims are patentably distinct over the prior art and allowable in form.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 02-1666.

If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicant's agent at the telephone number set forth below.

Respectfully submitted,

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Dated: March 24, 2008.

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Doc# 138002v1